

APPEAL NO. 030096
FILED MARCH 6, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on December 18, 2002. The hearing officer determined that respondent (claimant) is entitled to supplemental income benefits (SIBs) for the first quarter. Appellant (carrier) appealed the determinations regarding direct result and SIBs entitlement on sufficiency grounds. The file does not contain a response from claimant. The determination regarding good faith was not appealed.

DECISION

We affirm.

Carrier contends that the hearing officer erred in determining that claimant met her burden regarding direct result. Claimant was required to establish that she earned less than 80% of her average weekly wage (AWW) as a direct result of the impairment from the compensable injury. Section 408.142(a)(2) and Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102(b)(1) (Rule 130.102(b)(1)). An injured employee has earned less than 80% of the employee's AWW as a direct result of the impairment from the compensable injury if the impairment from the compensable injury is a cause of the reduced earnings. Carrier asserts that, because claimant was released to full-duty work without restrictions, her unemployment was not a direct result of the impairment from the compensable injury. Claimant said that her treating doctor had released her to work without restrictions before the qualifying period began, and a Work Status Report (TWCC-73) from claimant's treating doctor shows this is true. However, the fact that there is a full-duty work release does not always resolve the issue of direct result. See Texas Workers' Compensation Commission Appeal No. 982993, decided February 5, 1999. The focus is not solely on whether the claimant has been released to the former job without restrictions. The hearing officer may also consider (1) why the claimant was unemployed during the filing period; and (2) whether the impairment affected or impacted the claimant's unemployment or underemployment situation.

Claimant sustained a compensable injury to her hand in _____ and her impairment rating for her injury was 17%. The qualifying period for the first quarter was from February 13 through May 14, 2002. The hearing officer stated in the decision and order that "[claimant] testified as to the effects of her injury giving her difficulty typing during the qualifying period." Claimant indicated that she was attending school sponsored by the Texas Rehabilitation Commission beginning in the Spring of 2002 to retrain her hand "with therapy," and said she could not type at first when she started classes in March 2002. Claimant said she had undergone a second surgery on her hand in January 2001. Claimant said that her hand was "much better" at the time of the hearing.

We have reviewed the complained-of determinations regarding direct result and SIBs and conclude that the issues involved fact questions for the hearing officer. The hearing officer reviewed the record and decided what facts were established. The hearing officer could determine from the evidence that the impairment affected or impacted the claimant's unemployment situation. We conclude that the hearing officer's determinations are supported by the record and are not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

We affirm the hearing officer's decision and order.

According to information provided by carrier, the true corporate name of the insurance carrier is **ZURICH AMERICAN INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**BEN SCHROEDER
12222 MERIT DRIVE, SUITE 700
DALLAS, TX 75251.**

Judy L. S. Barnes
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Thomas A. Knapp
Appeals Judge